

REMARKS

1. Claims 1-6, 9-13, 16-23 and 26-35 are pending in the application.
2. Claims 1-6, 9-13, 23 and 26-35 are allowed.
3. Claim 16 stands rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. The Examiner states that a statutory “process” must be tied to another statutory category (such as an apparatus), or transform underlying subject matter (such as an article or material) to a different state or thing. The Examiner cites the May 15, 2008 memorandum issued by Deputy Commissioner for Patent Examining Procedure titled “Clarification of Processes” under 35 U.S.C. 101.
4. Claims 17-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
5. Claims 16, 17 and 18 have been amended. No new matter has been added.

Rejection under 35 U.S.C §101

Claim 16 stands rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. Claim 16 has been amended to recite in part: “(a) *generating an optical comb using an optical comb generator*, the optical comb comprising optical tones having a frequency spacing equal to Δf ” (emphasis added). Applicant submits that claim 16 as amended is tied to an optical comb generator, which is a particular apparatus in a statutory category.

In view of the above, Applicant submits that claim 16 is patentable over the cited art and should be allowed by the Examiner.

Claims 17-22

Applicant submits that claims 17 -22 are also allowable at least by virtue of their dependency on claim 16 as well as the additional limitations recited by each of these claims.

In view of the above, Applicants submit that the application is now in condition for allowance and respectfully urges the Examiner to pass this case to issue.

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 12-0415. In particular, if this response is not timely filed, the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136(a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 12-0415.

I hereby certify that this document is being transmitted to the Patent and Trademark Office via electronic filing.

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